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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91224067
Party	Plaintiff Larry Paletz
Correspondence Address	LARRY PALETZ 1493 CAMINITO SOLIDAGO LA JOLLA, CA 92037 UNITED STATES lifegoodinca@outlook.com, lpaletz@wellmann.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Larry Paletz
Filer's e-mail	lifegoodinca@outlook.com, lpaletz@wellmann.com
Signature	/larrypaletz/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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)	
Larry Paletz,)	Proceeding No.: 91224067
)	
Opposer,)	
)	
v.)	Serial No.: 79143534
)	
Tielsa GmbH,)	
)	
Applicant)	Mark: Tielsa
)	

AMENDED NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir:

Larry Paletz, an individual Citizen of the United States of America, located and doing business at 7852 Ivanhoe Avenue, La Jolla, CA 92037, (“Opposer”), believes that he will be damaged by registration of U.S. Trademark Application Serial No. 79143534 (“Application”) for the mark **Tielsa** owned by Tielsa GmbH (“Applicant”) and therefore opposes the same.

As grounds for opposition, it is alleged:

1. By the Application filed on September 11, 2013, Applicant seeks to obtain registration on the Principal Register of the trademark **Tielsa** for:
“Optical, weighing, measuring, signaling, checking, supervision, life-saving and teaching apparatus and instruments, namely, cameras, ground reaction force plates, force sensors,

pressure sensors, pressure distribution sensors, electronic display boards, fire extinguishers, acoustic alarms, namely, smoke and fire alarms, Weighing equipment, namely, scales and balances, Weighing platters sold as a component of scanner scales, Thermostats; Infra-red thermometers, Thermometers not for medical purposes; apparatus for recording, transmission or reproduction of sound or images; computer hardware and software for the remote control of furniture, communication between measurement equipment and control of the furniture or medical facilities; measuring apparatus, to measure body values and vital signs; electric measuring devices, to measure body values and vital signs; graduated glassware; measuring instruments to measure body values and vital signs; electronic notice boards; electric display apparatus, namely, electronic display boards, plasma display boards, electronic display screens; downloadable electronic publications in the nature of newsletters manuals, books, leaflets in the field of computer software and hardware for intelligent home; electronic pens for visual display units; transmitters of electronic signals; electro-dynamic apparatus for the remote control of signals; testing apparatus not for medical purposes for body values and vital signs; diagnostic apparatus, not for medical purposes for body values and vital signs; thermometers, not for medical purposes; ultrasound apparatus, not for medical purposes to measure body values and vital signs; measuring, monitoring and evaluation apparatus for detecting substances or substance parameters within the human body and body values, in particular for non-invasive measurement” in International Class 009

and

“Medical X-ray apparatus; body rehabilitation apparatus for medical purposes; electrodes for medical use; cushions for medical purposes to sit and sleep; lasers for medical purposes; air pillows for medical purposes; air cushions for medical purposes; air mattresses, for medical purposes; medical apparatus and instruments for monitoring oxymetry, gas analysis, vital signs, blood properties and respiratory events; medical guidewires; physical exercise apparatus, for medical purposes; needles for medical purposes; vacuum pumps for medical purposes; quartz lamps for medical purposes; radiological apparatus for medical purposes; probes for medical purposes; furniture especially made for medical purposes; thermometers for medical purposes; dropper bottles for dispensing medicines sold empty; ultrasound apparatus for

medical purposes; ultraviolet lamps for medical purposes; nebulizers for medical purposes; measuring, monitoring and evaluation apparatus for detecting substances or substance parameters within the human body and body values, in particular for non-invasive measurement, namely, Blood testing apparatus, Blood glucose meters, Blood pressure monitors, Sphygmomanometers, Meters for medical use, namely, for positive airway pressure therapy, measuring pulse, heart rate, skin perspiration detectors for use as a health monitoring device, biofeedback sensors” in International Class 10

and

“Sinks; extractor hoods for kitchens; hydromassage bath apparatus; bath tubs; bath installations; Apparatus for lighting, namely, lamps, led lamps; heating apparatus and installations, namely, furnaces, electric radiant and space heaters, water heaters, hot water tanks, boilers, heat pumps; cooking and steam production apparatus and installations, namely, electric slow cookers, cooking ovens, microwave ovens, cooking hobs, namely, gas and electric cooktops, food roasting machines, electric pressure cookers, barbecues, gas and electric grills, electric rice cookers, pizza machines in the nature of baking ovens, electric sandwiches toasters; refrigerating apparatus and machines, namely, refrigerators, freezers, ice machines and apparatus, wine coolers in the nature of refrigerated cabinets containing racks for wine bottles and storage shelves, water coolers; electric fans; ventilation hoods; air humidifiers; water distribution systems and sanitation apparatus, namely, water dispensers and purifiers; showers; shower cubicle enclosures; shower heads; regulating accessories for water or gas apparatus and pipes; sanitary apparatus and installations, namely, bidets, toilets; portable toilets; waterless toilets, sinks; specialized integrated pressurized flushing cistern and flushing device integrated in a toilet comprised of flush levers, single and dual flush valves, fill valves, flush levers, buttons, push plates, discharge and drainage pipes; pre-fabricated exposed and concealed cistern with or without frame for carrying a bidet, toilet, urinal and washbasin; bath tubs for sitz baths; solar water heaters; water closets; toilet bowls; toilet seats; portable toilets; water heaters; hot-water heating systems for residential and commercial buildings comprised of boilers, valves, pipes, manifolds, solar panels, control panel, switches and electrical wire. bath fittings, namely, Plumbing fitting, namely, vacuum release safety valve for flow shutoff in pools and spas, shower

control valves, tub control valves, couplers, drains, faucet filters, spouts, baffles, sink strainers, traps, valves” in International Class 011

and

“Non-metallic building materials for fitted kitchens, namely, semi-worked woods for fitted kitchens, wood veneer for fitted kitchens, laminated plastic for fitted kitchens, laminated wood for fitted kitchens, glass for building; non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal” in International Class 019

and

“Furniture and furniture parts; furniture made of wood; furniture made of plastic; furniture of wood and plastic combined; furniture walls; kitchen furniture; furniture for the home; furniture for the bathroom” in International Class 020

and

“computer-aided transmission of messages, data and images; Providing access to information on the Internet; electronic relaying of messages; Internet service provider” (ISP) in International Class 038

and

“Medical services, namely, conducting of medical examinations on the human body, conducting of examinations of body fluids, medical analysis of measurement data and preparing recommendations based on the analysis of measurement data, medical analysis services relating to the treatment of persons provided by a medical laboratory” in International Class 044.

2. Since long before the filing date of the Application, Opposer has been, and still is, engaged in the marketing and sale of kitchen equipment under the mark **tielsa The Exclusive Kitchen**.

3. Opposer owns and relies on his Common Law Rights for the mark **tielsa The Exclusive Kitchen**, for Furniture, Kitchen Furniture, Bathroom Furniture, Accessories for Furniture. The first use of the Mark **tielsa The Exclusive Kitchen** by Opposer is many years prior to the filing date of the Application.

4. Since at least 14 (fourteen) years before the filing date of the Application, Opposer has continuously used and promoted the **tielsa The Exclusive Kitchen** Mark in interstate commerce in connection with its goods. By virtue of Opposer's continuous and substantial use, the **tielsa The Exclusive Kitchen** Mark has become an identifier of Opposer and its goods, and distinguish Opposer's goods from the goods of others. As a result, Opposer has built up, at great expense and effort, valuable goodwill in the **tielsa The Exclusive Kitchen** Mark. Opposer has developed a significant amount of goodwill through the use and promotion of its **tielsa The Exclusive Kitchen** Mark, such that consumers have come to recognize the Mark with which Opposer markets and sells its goods.

5. Opposer has extensive common law rights in its **tielsa The Exclusive Kitchen** Mark throughout the United States, having sold goods under Opposer's **tielsa The Exclusive Kitchen** Mark. Opposer's common law rights in its **tielsa The Exclusive Kitchen** Mark predates the filing date of the Application.

6. The Application is based upon Applicant's International Registration No. 1194384 dated September 11, 2013. The date of Applicant's application for this International Registration was January 11, 2013. Upon information and belief, Applicant has never sold, or offered for sale, any Goods or Services using the **Tielsa** Mark in the United States of America. Opposer's use since at least 1999 of its **tielsa The Exclusive Kitchen** Mark predates Applicant's International Application and Registration.

7. By its application to register **Tielsa**, Applicant seeks an unrestricted federal registration for **Tielsa** covering the Goods and Services described in Paragraph (1) hereof, and providing an internet website featuring information about the said Goods and Services. As such, if a registration issues for the Application, such registration will constitute prima facie evidence of the Applicant's exclusive right to use the registered mark in commerce on or in connection with the listed Goods and Services throughout the United States with no limitation thereon.

8. The Application fails to disclose the Stylized Design which Applicant uses to identify its Goods and Services, which Design is confusingly similar to the Stylized Design used by Opposer to identify its goods.

9. Opposer will be damaged by registration of the Application in that the **Tielsa**

Mark so resembles Opposer's **tielsa The Exclusive Kitchen** Mark in which Opposer owns Common Law Trademark rights, as to be likely, when used on or in connection with the Goods and Services as they are identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

10. In view of Opposer's prior rights in its **tielsa The Exclusive Kitchen** Mark, Applicant is not entitled to federal registration of the **Tielsa** Mark pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 79143534 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully Submitted

Dated: May 6, 2016

Larry Paletz
1493 Caminito Solidago
La Jolla, CA 92037
Tel 858 459 1000
lpaletz@wellmann.com

OPPOSER